**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

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| In the Matter of | ) | |
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| Unbundled Access to Network Elements | ) | WC Docket No. 04-313 |
| | ) | |
| Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers | ) | CC Docket No. 01-338 |

## DECLARATION OF RONALD H. LATAILLE

1. My name is Ronald Lataille. My business address is 1095 Avenue of the Americas, New York, NY 10036. I am Vice President – Financial Planning and Analysis Domestic Telecom Finance. In that role, I lead the teams responsible for developing the Strategic Plan, Business Plan and Competitive Market Analysis for the Telecommunications business. I have more than 20 years of experience in the telecommunications industry, in numerous financial positions, working for Verizon and Bell Atlantic.

2. I make this declaration in support of Verizon's Petition for Stay Pending Judicial Review. In this declaration, I describe the ongoing, irreparable financial harm to Verizon caused by the rules adopted in the FCC's *Order on Remand* that permit carriers to convert existing special access services to unbundled high-capacity loops and transport and to enhanced extended links ("EELs"), which are simply combinations of unbundled high-capacity loops and transport.

3. The *Order on Remand*'s rules allowing carrier customers to convert their existing high-capacity special access services to unbundled high-capacity loops, transport, or EELs will cause immediate, severe, and irreparable harm to Verizon. The source of this harm

will be a substantial reduction in Verizon's special access revenues, at least part of which will never be recouped, and an increase in costs that will not be recoverable.

4. Verizon's tariffed high-capacity special access services are high-capacity services and facilities dedicated to the use of an individual customer. Special access customers are either large businesses or carriers with volumes of traffic large enough to justify point-to-point facilities that run directly between two end-user locations or an end-user location and a carrier's location.

5. The facilities and services that constitute Verizon's special access services are the same facilities that make up unbundled high-capacity loops, transport, and EELs. The difference is one of price. Verizon's special access services are offered in a competitive market at competitive rates. The FCC previously has concluded that Verizon's special access services are sufficiently competitive that it has removed more than 80 percent of Verizon's special access services from retail rate regulation altogether, or has allowed them to be provided under negotiated contracts rather than under tariff at regulated rates. In contrast, unbundled high-capacity loops, transport, and EELs are priced based on the FCC's hypothetical TELRIC model that is used to set rates for unbundled network elements in general and that the FCC's chairman has acknowledged produce "subsidized" rates. *See* J. Pelofsky, "FCC Chief Denies Leaving, Outlines Media Agenda," Star-Ledger (Newark, NJ), Aug. 19, 2003, at 32. The UNE prices for unbundled high-capacity loops, transport, and EELs generally are approximately 25 to 50 percent lower than the prices Verizon charges for our competitive special access services.

6. In its *Order on Remand*, the FCC reimposed its requirements to unbundle high-capacity loops and dedicated transport and to make EELs available to requesting carriers

with limited exceptions that provide little unbundling relief. Under the FCC's new triggers for high-capacity loops and transport, Verizon will receive unbundling relief for high-capacity DS-3 transport on routes between less than six percent of Verizon's wire centers, and on routes between only four percent of wire centers for DS-1 transport. Because the *Order on Remand* requires that the trigger be met on both ends of the transport link before any relief from unbundling will be allowed, the actual impact of the transport relief is much more limited. The relief with respect to high-capacity loops is even more constrained; only 26 or one half of one percent of all wire centers meet the FCC's triggers for unbundling relief for DS-1 level high-capacity loops, the most commonly purchased high capacity loop, and just 52 wire centers or around one percent of all wire centers for DS-3 loops.

7. In addition, the *Order on Remand* concludes that UNEs need not be made available to provide exclusively wireless or long-distance service. With respect to the latter limitation, however, wireline carriers frequently provide a mix of local and long-distance service over high capacity facilities. To date, the only mechanism adopted by the FCC to give effect to its limitation on the availability of UNEs to provide exclusively long distance consists of "architectural" criteria that the FCC adopted in its previous *Triennial Review Order* to determine a carrier's eligibility to obtain a particular circuit at low UNE rates based on TELRIC. In its current *Order on Remand*, the FCC held for the first time that even these rules apply only to loop transport combinations, and not to standalone elements such as unbundled loops. Those rules also focus on whether a carrier is *capable* of offering local service in conjunction with long-distance service rather than on whether a particular high capacity facility is actually being used in material part (or any part) for long-distance traffic. While these rules were adopted initially in the prior *Triennial Review Order*, many of

Verizon's interconnection contracts still incorporate earlier limitations that the FCC adopted in 2000 and that required carriers to actually use a high capacity facility to provide a significant amount of local service.

8. By reinstating broad unbundling obligations for high capacity facilities and permitting existing special access services to be converted to UNEs wherever unbundling is required, the FCC's *Order on Remand* will result in both a loss of revenues that will not be fully recoverable and an increase in costs. Some carriers previously signed contract amendments incorporating the FCC's eligibility criteria. Others will do so now that the underlying unbundling obligations have been reinstated. Still others will choose to litigate the terms for implementing those criteria in state arbitration proceeding, which itself will impose unrecoverable costs on Verizon. Indeed, while the previous appeal was pending and while the Commission considered its rules on remand, the rules adopted in the *Triennial Review Order* spawned as many as 16 different state arbitration proceedings under Section 252 of the Act. This litigation has been costly and time-consuming. Furthermore, the litigation will continue if the rules go into effect to address other new claims by carriers that are now arguing that the new rules must be applied retroactively to October 2, 2003, when the FCC released the *Triennial Review Order*, and that they should not have to pay any charges to cover the cost of converting their special access circuits to UNEs.

9. Verizon thus finds itself facing two different scenarios, depending on choices made by the CLEC, both of which will result in increased costs and decreased revenues. On one hand, some CLECs will choose to continue litigation with respect to contract amendments covering the conversion criteria. This will require continuation of multiple proceedings in multiple states on an issue that would not have to be addressed at all if the Commission had

followed the Court's directive and prohibited conversions. On the other hand, we expect that other CLECs will simply sign on to Verizon's proposed amendment language, thereby allowing them to begin converting their special access circuits to UNEs almost immediately.

10. Verizon has analyzed the impact of the requirement to unbundle dedicated loops and transport and of the new rules governing EELs. Based on that analysis, and taking into account that some CLECs will choose to litigate rather than quickly sign amended interconnection agreements, Verizon has concluded that, between the time the *Order on Remand* takes effect and the end of 2005, the price reductions resulting from the new rules will nevertheless result in a net revenue loss of tens of millions of dollars. These losses also will continue to accumulate thereafter. For example, the additional revenue loss is expected to be between $112 million and $168 million by the end of 2006.

11. These figures are stated as a range because, in addition to the question of the timing of amendments, there are a number of factors that could affect the timing of the price reductions that result from the new rules. For example, some carriers (though not some significant ones) currently purchase special access services under term plans that impose early termination liabilities that will require them to make a cost/benefit determination as to the best time to convert to the lower prices. The result of that determination is not clear given that the liabilities associated with these term plans are not very large and may be quickly offset by savings associated with lower UNE prices. Regardless, these term plans expire over time. Verizon estimates that approximately 20 percent of its circuit-specific term plans will expire over the coming year. In addition, some carriers will need to amend their interconnection agreements and, in some cases, carriers will have to rearrange their circuits in order to take

advantage of the lower prices. But as the ranges make clear, the losses are certain, large, and will be incurred beginning almost immediately.

12. Moreover, at least a portion of that lost revenue could not be recouped, even in the face of an FCC order requiring reimbursement. While many carriers providing competing high capacity services have strong financial fundamentals including positive EBITDA (Earnings Before Interest Taxes, Depreciation & Amortization), the financial disruptions that have resulted from so many new entrants into this market have resulted in a significant number of bankruptcies as well. One recent analysis of the state of the CLEC industry reports more than 50 bankruptcies between 2001 and 2004. *See* New Paradigm Resources Group, Inc., *CLEC Report 2005*, Ch. 2 at Tables 1-3 (19th ed. 2004). This suggests that some portion of the lost revenue will not be recoverable regardless of any subsequent FCC corrective action.

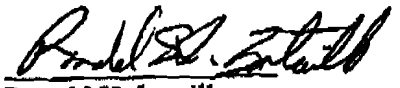
13. The losses that result from the price reductions for high-capacity loops, transport, and EELs will not only reduce Verizon's revenues, but also cause irreparable harm in the form of cost increases that Verizon will not be able to recover. To convert special access circuits to UNEs, Verizon must still provide fundamentally the same service using the same network facilities as it provides to customers purchasing special access services. Regardless of whether the circuit is purchased as a special access circuit or converted from a special access circuit to a UNE, Verizon must incur all the costs to provide the service, including provisioning and maintenance. In addition to those costs, however, Verizon will incur additional network costs. In order to meet the Commission's conversion criteria, some competing carriers will choose to adjust their network facilities to combine different circuits. By regrouping different loops with different transport, they will be able to maximize the

number of circuits that qualify for conversion under the Commission's rules. These "grooming" changes result in significant costs to Verizon. A future reversal of the FCC rule on conversions will not help Verizon recoup costs of network rearrangements to the extent they are otherwise uncompensated.

14. Verizon also must incur administrative costs for the conversion process itself, which requires carriers to submit new orders to convert their special access circuits to UNEs. Moreover, should the Court reverse the Commission on its conversion requirement, Verizon would undergo additional expense to convert these circuits back to special access service. Thus, in addition to building the network facilities, Verizon's portion of the work to complete special access to UNE conversions is expected to impose millions of dollars of additional costs in addition to the revenue reductions discussed above.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 25, 2005



Ronald H. Lataille